



U.S. Department of Justice

Antitrust Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAY 5 1992

Daniel M. Share, Esq.
Barris, Scott, Denn & Driker
211 West Fort Street
Fifteenth Floor
Detroit, Michigan 48226-3281

Dear Mr. Share

This letter responds to your request of July 26, 1990 for a statement of the Department of Justice's ("the Department") current enforcement intentions regarding the "supplier discount coupon program" proposed by the Automotive Service Association of Michigan, Inc. ("ASA"). ASA proposes to establish a supplier discount coupon program to provide ASA member and non-member automotive collision repair shops with price discounts offered by participating parts suppliers on purchases of specified auto parts. Based on the information you have provided, the Department has no current intention to challenge the supplier discount coupon program proposed by ASA.

ASA is a non-profit corporation whose members are independent automotive service and repair shops located throughout Michigan. ASA was originally incorporated, under a different name, in 1943 for the purposes of fostering the business interests of its members and acquiring, preserving, and disseminating business information to its members. ASA members compete directly with each other, with automotive dealerships, and with large service and repair chains.

ASA proposes to assemble, promote and disseminate a coupon book consisting of coupons authorizing price discounts offered by participating parts suppliers on purchases of specified auto parts. The desired result of the supplier discount coupon program is to give small independent collision repair shops, such as those represented by ASA, a decreased price on automotive parts so as to make them more competitive with larger competitors that receive volume discounts directly from manufacturers. ASA will make the coupon books available for purchase by ASA members and non-members alike at an identical price which has yet to be determined.

Based on the information you have provided, the Department of Justice has no current intention to challenge the supplier discount coupon program proposed by ASA. ASA's supplier discount coupon program has the potential to lower the cost of auto parts to small independent collision repair shops, thus enabling them to be more competitive with their larger competitors. The Department would challenge the creation or implementation of any program that would be likely to result in the exercise of market power ("monopsony power") over the price of auto parts offered by suppliers in any relevant market. Based on the information you have provided the Department of Justice, it is unlikely that ASA and non-member participants in the supplier discount program would acquire monopsony power. ASA members and non-members that are likely to participate in the supplier discount program perform only about 20 percent of all available collision repairs. Additionally, the amount of the discount offered by any participating supplier will be decided solely by each individual supplier. The ASA will not negotiate with suppliers on behalf of its members.

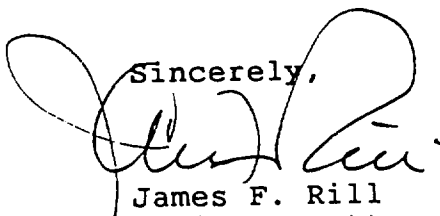
The Department also would challenge the program if it would be likely to facilitate collusion among collision repair shops in the sale of their products or services. Again, based on the information you have provided us, we believe that this effect is not likely to occur, for several reasons. As noted above, it is likely that the collision repair shops that purchase and use the books will comprise only a small proportion of the total number of shops in the state. Further, those repair shops that do use the books would remain free also to purchase parts from suppliers not participating in the program. While the cost of collision repair parts represents about 50 percent of the total cost of collision repairs, it does not appear that the program would result in significantly greater uniformity of those costs among collision repair shops, which could otherwise facilitate collusion. Finally, we perceive no other aspects of the program that would enhance the ability of collision repair shops to reach or sustain a collusive agreement.

Based on your representations, ASA's supplier discount coupon program appears unlikely to reduce competition, either by creating monopsony power or by facilitating collusion among ASA members. The Department of Justice thus has no current intention to challenge the conduct described in your proposal.

This letter expresses the Department's current enforcement intention only. In accordance with our normal practice, the Department reserves the right to bring an enforcement action in the future if the actual operation of ASA's supplier discount coupon program proves anticompetitive in purpose or effect.

This statement is made in accordance with the Department's business review procedure, 28 C.F.R. § 50.6. Pursuant to its terms, your business review request and this letter will be made publicly available within thirty days of the date of this letter, unless you request that any part of the material be withheld in accordance with paragraph 10(c) of the Business Review Procedure.

Sincerely,

A handwritten signature in black ink, appearing to read "James F. Rill", written over the word "Sincerely,".

James F. Rill
Assistant Attorney General